

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

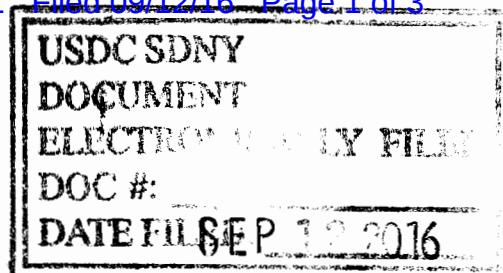
----- X
GUILLERMO HERNANDEZ and NATALIA
VALENCIA,

Plaintiffs,

-v-

CALIBER HOME LOANS; DEUTSCHE BANK,
as National Trustee for Long Beach Mortgage Loan;
Trust 2005-3; LONG BEACH MORTGAGE CO.;
and JOHN DOES 1-100,

Defendants.
----- X



ORDER

16 Civ. 3755 (GBD) (HBP)

GEORGE B. DANIELS, United States District Judge:

On May 19, 2016, Plaintiff Natalia Valencia, proceeding *pro se*, initiated this action, (Compl., ECF No. 1), against Defendants on behalf of herself and Guillermo Hernandez, who died in 2005. (*Id.* at ¶ 11.) Valencia seeks to vacate a foreclosure sale as “heir to the home.” (*Id.*) On May 23, 2016, the matter was referred to Magistrate Judge Henry B. Pitman. (ECF No. 3.)

Magistrate Judge Pitman ordered Plaintiff Valencia on June 1, 2016 to show cause, in a written affirmation to be submitted by July 1, 2016, why the claims of Hernandez’s estate should not be dismissed because she cannot represent the estate as a *pro se* plaintiff. (ECF No. 5.) Magistrate Judge Pitman also ordered Plaintiff Valencia to file an amended complaint, also by July 1, 2016, including factual allegations showing that she personally has an interest in the real property at issue and/or assumed the mortgage loan associated with 58 Fairway Drive, Hempstead, New York. (*Id.*)

After Plaintiff Valencia’s request for a twenty-five day extension, which Magistrate Judge Pitman granted, (ECF No. 6), she failed to comply with either directive of Magistrate Judge Pitman’s June 1, 2016 Order. (*See, generally*, ECF.)

Before this Court is Magistrate Judge Pitman's August 19, 2016 Report and Recommendation ("Report"), (ECF No. 18), in which he recommended that this Court dismiss the Complaint for (1) failure to allege facts demonstrating Plaintiff Valencia could bring an action on behalf of Hernandez's estate, and (2) failure to allege facts showing she had standing to bring claims in her own right. (*See* Report at 6.)

Magistrate Judge Pitman advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (Report at 7); *see also* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). As of the date of this Order, no objection to the Report has been filed.¹

This Court may accept, reject, or modify, in whole or in part, the findings set forth in the Report. 28 U.S.C. § 636(b)(1)(C). When no party files objections to a Report, the Court may adopt the Report if "there is no clear error on the face of the record." *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (quoting *Nelson*, 618 F. Supp. at 1189); *Wilds v. United Parcel Service, Inc.*, 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003) ("To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record" (internal citations and quotation marks omitted)).

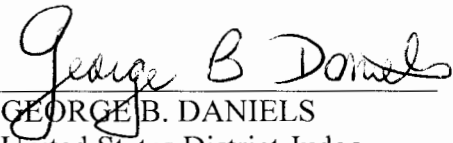
The Report contains no clear error and is adopted in its entirety. The Complaint is DISMISSED.

¹ On September 2, 2016, Plaintiff Valencia untimely filed a purported Amended Complaint. (ECF No. 19.) As Defendants argue in their September 6, 2016 letter, the Amended Complaint still suffers from the same deficiencies on which Magistrate Judge Pitman based his recommendation to dismiss the original Complaint. (Defs.' Sept. 6, 2016 Letter, ECF No. 20, at 1-2.) Plaintiff Valencia has again failed to sufficiently allege that she has a personal interest in the real property at issue or assumed the mortgage loan associated with the real property. (*See* Am. Comp., ¶ 11.) The Amended Complaint is rejected and ordered stricken.

The Clerk of Court is directed to close this case.

Dated: New York, New York
September 12, 2016

SO ORDERED:



GEORGE B. DANIELS
United States District Judge